

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**SUSAN LLOYD,**

**Plaintiff,**

**v.**

**Case No. 2:20-cv-2928**

**Judge Edmund A. Sargus, Jr.**

**Magistrate Judge Chelsey M. Vascara**

**THOMAS POKORNY, *et al.*,**

**Defendants.**

**OPINION AND ORDER**

This matter is before the Court for consideration of a Report and Recommendation issued by the Magistrate Judge on February 24, 2021. (ECF No. 103.) The Magistrate Judge reports that Plaintiff failed to properly effect service on Defendants Jason Whitacre, Scott Flynn, Troy Reeves, and Flynn, Keith, and Flynn, LLC. The Magistrate Judge further reports that the failure to properly effect service comes despite the Court previously ordering Plaintiff to file proof of service and cautioning that failure to properly effect service would result in a dismissal of the action against these four Defendants.

The Magistrate Judge recommends dismissal of this action against these four Defendants pursuant to Rules 4(m) and 41(b) of the Federal Rules of Civil Procedure. Plaintiff timely objected to the Report and Recommendation, stating that “[t]he Defendants all waived service[.]” (ECF No. 104.) The Court has reviewed *de novo* Plaintiff’s objection and **OVERRULES** the objection. Plaintiff’s assertion is unsupported by any proof of these alleged waivers.

Accordingly, the Court **ADOPTS** the Report and Recommendation, (ECF No. 103), and **DISMISSES without prejudice** Plaintiff’s Complaint against Defendants Jason Whitacre, Scott

Flynn, Troy Reeves, and Flynn, Keith, and Flynn, LLC. Further, upon the recommendation of the Magistrate Judge it is **ORDERED** that Plaintiff shall list 2:20-cv-2928 as a related case if she re-files this action. As other parties remain in this case, the case is to remain open.

**IT IS SO ORDERED.**

5/26/2021  
DATE

s/Edmund A. Sargus, Jr.  
**EDMUND A. SARGUS, JR.**  
**UNITED STATES DISTRICT JUDGE**